



26/10/07

35

HIGH COURT OF CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI JAGDISH BHALLA, Ag. CJ

Writ Petition (C) No. 5374 of 2007

Petitioner
Plaintiff

Chyavan Singh Rajput, aged about 47 years, S/o late Thakur Umesh Singh R/o Purani Basti, At Present Quarter No. 100, Pragati Nagar, Dipika Post Dipika, Distt. Korba (C.G.)

VERSUS

Respondent
Defendant

Mukund Singh Rajput aged about 61 years, S/o Late Thakur Umesh Singh R/o Purani Bsti, Post Tahsil and Distt. Korba.

Writ Petition under Article 227 of the Constitution of India

Present: Shri Parag Kotecha, counsel for the petitioner.

ORAL ORDER
(Passed on 24th October, 2007)

Petitioner/plaintiff had filed a Civil Suit for declaration regarding his half share in the property in question, for declaration, permanent injunction and for partition. An application under Order 39 Rule 1 and 2 of the Code of Civil Procedure was also filed which was rejected by the trial Court. Aggrieved by the said order the petitioner filed an appeal before the District Judge which too was rejected. Hence this writ petition.

Question of title is *sub judice* before the trial Court. This Court is of the opinion that no finding can be recorded regarding the title of the suit at this stage and the interest of justice would suffice if it is provided that in case the petitioner succeeds in the Civil Suit, the property falling in his share in the land in question along with building if any, will go to him.

Without making any observation about the merits of the case, the petition is disposed of. However, it would be open for the petitioner/plaintiff to raise this issue before the trial Court who shall consider and decide the same at an appropriate stage if need be, in accordance with law.

Sd/-
Jagdish Bhalla
Ag. Chief Justice

Karnade